

The Honorable J. Dennis Hastert
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

At the direction of the President, I am pleased to notify the Congress of the United States' ongoing negotiations with Chile on a free trade agreement (FTA). This notification is in accordance with section 2106(b)(2)(A) of the Trade Act of 2002. It is crucial that we move forward on this and other trade agreements in order to restore America's leadership on trade.

The Administration is committed to bringing back trade agreements that open markets to benefit our farmers, workers, businesses, and families. With the Congress' continued help we can move promptly to advance America's trade interests. Concluding our ongoing negotiations with Chile is an important first step.

The origins of an agreement with Chile date back to the Administration of President George H. W. Bush, when the first discussions were held regarding a possible Chile FTA. In 1994, the Clinton Administration announced its interest in extending the North American Free Trade Agreement (NAFTA) to include Chile. Since that time our NAFTA partners, Canada and Mexico, have concluded free trade agreements with Chile. President Clinton initiated talks with Chile in December 2000, and the agreement is nearing completion.

In my letter of August 22, 2002, to the Congressional leadership and trade committees, I outlined the reasons that it is in the United States' interest to pursue an FTA with Chile. The agreement will help foster economic growth, improve living standards, and create higher paying jobs in the United States and Chile by reducing and eliminating bilateral barriers to trade and investment. The agreement will create improved market opportunities for U.S. goods and services exports. An FTA will also serve the United States' broader economic interests. It will assist U.S. efforts to create competition among countries for liberalization in the Western Hemisphere, thus furthering our efforts to establish a Free Trade Area of the Americas (FTAA). Finally, an FTA will assist Chile's efforts to continue implementing the free market economic policies that have made Chile a model for its Latin American neighbors.

The negotiations on this FTA have been conducted in a transparent manner to ensure that businesses, labor organizations, non-governmental organizations, state and local governments, and the public are kept informed and have ample opportunity to provide views. We have completed a draft environmental review of the agreement and accepted public comment. We have consulted extensively with Members of Congress since initiation of the negotiations with Chile, and we believe that there is broad bipartisan interest in such an agreement. The

Administration will continue to consult closely with Congress, including the new Congressional Oversight Group.

Our specific objectives for the negotiations with Chile are as follows:

- *Trade in Goods:*
 - Seek to eliminate tariffs and other duties and charges on trade between Chile and the United States on the broadest possible basis, subject to reasonable adjustment periods for import-sensitive products.
 - Seek to ensure that full market access liberalization is achieved for products covered by Chile's price bands, such as wheat and vegetable oils.
 - Seek to ensure that Chile's rules for administering tariff-rate quotas on agricultural products are not restrictive.
 - Seek to address Chilean practices that adversely affect perishable or cyclical agricultural products, while improving U.S. import relief mechanisms as appropriate.
 - Pursue a mechanism with Chile that will support achieving the U.S. objective in the WTO negotiations of eliminating all export subsidies on agricultural products, and in the FTAA negotiations of eliminating agricultural export subsidies on trade in the Hemisphere, while maintaining the right to provide *bona fide* food aid and preserving U.S. agricultural market development and export credit programs.
- *Customs Matters, Rules of Origin, and Enforcement Cooperation:*
 - Seek rules to require that Chile's customs operations are conducted with transparency, efficiency, and predictability and that its customs laws, regulations, decisions, and rulings are not applied in a manner that would create unwarranted procedural obstacles to international trade.
 - Seek rules of origin, procedures for applying these rules, and provisions to address circumvention matters that will ensure that preferential duty rates under the FTA apply only to goods eligible to receive such treatment, without creating unnecessary obstacles to trade.
 - Seek terms for cooperative efforts with Chile regarding enforcement of customs and related issues, including trade in textiles and apparel.

- *Sanitary and Phytosanitary (SPS) Measures:*
 - Seek to have Chile reaffirm its WTO commitments on SPS measures and eliminate any unjustified SPS restrictions, including those that have blocked market access for U.S. meat, dairy, poultry, and other products.
 - Seek to strengthen bilateral collaboration in implementing the WTO SPS Agreement and cooperation with Chile in relevant international bodies on developing international SPS standards, guidelines, and recommendations.
- *Technical Barriers to Trade (TBT):*
 - Seek to have Chile reaffirm its WTO TBT commitments and eliminate any unjustified TBT measures.
 - Seek to strengthen bilateral collaboration in implementing the WTO TBT Agreement and create a procedure for exchanging information with Chile on TBT-related issues.
- *Intellectual Property Rights:*
 - Seek to establish standards that build on the foundations established in the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPs Agreement) and other international intellectual property agreements, such as the World Intellectual Property Organization Copyright Treaty and Performances and Phonograms Treaty, and the Patent Cooperation Treaty.
 - Seek to enhance the level of Chile's protection for intellectual property rights beyond TRIPS in new areas of technology, such as internet service provider liability.
 - In other areas, such as patent protection and protection of undisclosed information, seek to have Chile apply levels of protection and practices more in line with U.S. law and practices, including appropriate flexibility.
 - Seek to strengthen Chile's procedures to enforce intellectual property rights, such as by ensuring that Chilean authorities seize suspected pirated and counterfeit goods, equipment used to make such goods or to transmit pirated goods, and documentary evidence. Seek to strengthen measures in Chile that provide for compensation for right holders for infringements of intellectual property rights and to provide for criminal penalties under Chilean law that are sufficient to have a deterrent effect on piracy and counterfeiting.

- *Trade in Services:*
 - Pursue disciplines to address discriminatory and other barriers to trade in Chile's services markets. Pursue a comprehensive approach to market access, including any necessary improvements in access to the financial services, transportation and other sectors.
 - Seek improved transparency and predictability of Chilean regulatory procedures, specialized disciplines for financial services, and additional disciplines for telecommunication services and other sectors as necessary.
- *Temporary Entry of Business Persons:*
 - Seek appropriate provisions to ensure that Chile will facilitate the temporary entry of U.S. business persons into its territory, while ensuring that any commitments by the United States are limited to temporary entry provisions and do not require any changes to U.S. laws and regulations relating to permanent immigration and permanent employment rights.
- *Investment:*
 - Seek to establish rules that reduce or eliminate artificial or trade-distorting barriers to U.S. investment in Chile, while ensuring that Chilean investors in the United States are not accorded greater substantive rights with respect to investment protections than U.S. investors in the United States, and to secure for U.S. investors in Chile important rights comparable to those that would be available under U.S. legal principles and practice.
 - Seek to ensure that U.S. investors receive treatment as favorable as that accorded to domestic or other foreign investors in Chile and to address unjustified barriers to the establishment and operation of U.S. investments in Chile. Provide procedures to resolve disputes between U.S. investors and the government of Chile that are in keeping with the trade promotion authority goals of being expeditious, fair and transparent.
 - Seek to have Chile reaffirm its WTO TRIMs commitments and eliminate WTO-inconsistent measures.
- *Electronic Commerce:*
 - Seek to affirm that Chile will allow goods and services to be delivered electronically and seek to ensure that Chile does not apply customs duties to digital products or unjustifiably discriminate among products delivered

electronically.

- *Government Procurement:*

- Establish rules that enable the suppliers of U.S. goods and services to compete, on a non-discriminatory basis, for a broad range of government procurement contracts.
- Impose disciplines based on the WTO Agreement on Government Procurement and the NAFTA that require Chile's procurement rules to provide transparency and predictability throughout the entire procurement process, particularly in the establishment of supplier qualifications and tender specifications, the evaluation of tenders, and the award of the contract.
- Ensure access to timely and effective procurement review procedures in Chile.

- *Transparency/Anti-Corruption/Regulatory Reform:*

- Seek to make Chile's procedures for administering trade-related measures fairer and more transparent, including by ensuring that interested parties can have timely access to information on these measures and Chile's procedures for administering them. Seek rules that will permit timely and meaningful public comment before Chile adopts trade-related measures.
- Seek to ensure that Chile enforces its prohibitions on corrupt practices affecting international trade.

- *Trade Remedies:*

- Provide a bilateral safeguard mechanism during the transition period.
- Make no changes in U.S. antidumping and countervailing duty laws.

- *Competition:*

- Address such issues as anticompetitive business conduct, state monopolies, and state enterprises. Seek cooperation and consultation provisions that foster cooperation on competition law and policy, and that provide for consultations on specific problems that may arise. Seek to negotiate a bilateral antitrust cooperation agreement with Chile.

- *Environment:*

- Seek to promote trade and environment policies that are mutually supportive.
- Seek an appropriate commitment by Chile to the effective enforcement of its environmental laws.
- Establish that Chile will strive to ensure that it will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in its environmental laws.
- Help Chile strengthen its capacity to protect the environment through the promotion of sustainable development, such as by establishing consultative mechanisms.
- *Labor, including Child Labor:*
 - Seek an appropriate commitment by Chile to the effective enforcement of its labor laws.
 - Establish that Chile will strive to ensure that it will not, as an encouragement for trade or investment, weaken or reduce the protections provided for in its labor laws.
 - Establish procedures for consultations and cooperative activities with Chile to strengthen its capacity to promote respect for core labor standards, including compliance with ILO Convention 182 on the worst forms of child labor, building on ongoing technical cooperation programs with the U.S. Department of Labor.
- *State-to-State Dispute Settlement:*
 - Encourage the early identification and settlement of disputes through consultation.
 - Seek to establish fair, transparent, timely, and effective procedures to settle disputes arising under the agreement.

In addition, the FTA will take into account other legitimate U.S. objectives including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests.

We are committed to concluding these negotiations with timely and substantive results for U.S. workers, ranchers, farmers, businesses, and families and will seek these specific objectives, as we pursue the overall and principal U.S. negotiating objectives and priorities set out in the TPA Act. We look forward to continuing to work with the Congress as we move forward in our negotiations with Chile and bring them to a successful conclusion.

Sincerely,

Robert B. Zoellick